HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7584 of 2005.

Cana Glass Limited,
66, Udyog Bhavan, Sonawala Rd,
Goregaon (E), Mumbai 400 063. ..Petitioner.

Versus.

The Pune Zilla Mazdoor Sangh,
Shaniwar Peth, Pune 411 030. ..Respondent.

Shri. M. J. Presswalla i/b Mulla & Mulla & Craige Blunt & Caroe for the petitioner.

Smt. Anjali N. Helekar for the respondents.

CORAM: S.B.MHASE,J.

DATE: AUGUST 9, 2006.

P.C..

1. This petition is directed as against the order dated 7th March 2005 passed by the Member Industrial Court, Pune below Exhibit-U-2 from the complaint (ULP) No. 182 of 2004. This is the complaint filed by the Union for recovery of the wages and other benefits which are due from the petitioner and to secure those dues. Therefore, interim application has been filed. Petitioners were directed to deposit in the Court half of the total wages of the employees mentioned in Annexure -"A" to

the complaint in a period of three months from the date of order.

2. Learned counsel for the petitioners submitted that the Company is under the BIFR and the BIFR Board has recommended action for liquidation and thereafter the complaint has been filed. Therefore, the complaint is incompetent. However, it is to be noted that the order of the BIFR Board has been challenged by the petitioner by filing an appeal. It appears that in view of this fact, the liquidation proceeding has not yet commenced. This Court repeatedly asked learned counsel as to what happened to the recommendations made by the Board and whether liquidation has been commenced. This has not been answered. But the reply was given to the effect that nothing has yet happened towards the liquidation. Simplicitor the recommendations, therefore, cannot be said to be a act of liquidation, especially when the appeal is pending before the Appellate Court. Therefore, the submissions made by the learned counsel that the complaint is incompetent, is hereby rejected.

3. As per the learned counsel, the production

is not being carried out by the Company yet there is no action of closure being taken. Thus, inspite of the fact that the actual production has been stopped, the petitioner is not taking either action for retrenchment or closure of the industry as contemplated under the Act, because that contemplates a compensation to be paid to the workers in accordance with law. The fact remains that, therefore, the company is functioning and the work is not provided. These workers are to be treated to be laid off workers and they are required to be paid lay-off compensation. Taking into consideration all these aspects of the matter, the interim order has been passed by the Industrial Court.

4. Since the matter arises from an interim order and the final adjudication is yet to take place, this Court refrains from interfering with the order at this interlocutory stage. In the result, petition is rejected.

(S.B.MHASE, J.)

:sac/2006/single.